

AMENDED IN ASSEMBLY MAY 19, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1021

Introduced by Assembly Member Gordon

February 18, 2011

An act to amend Sections 9005 and 9087 of the Elections Code, and to amend Section 88003 of the Government Code, relating to elections.

LEGISLATIVE COUNSEL’S DIGEST

AB 1021, as amended, Gordon. Ballot measures: fiscal analysis.

Existing law directs the Attorney General, in preparing a circulating title and summary for a proposed ballot initiative, to include an estimate of the amount of increase or decrease of revenues or costs to the state. Existing law requires the Department of Finance and the Joint Legislative Budget Committee to jointly make and deliver such an estimate to the Attorney General so that he or she may include it in the circulating title and summary.

This bill would, based on the fiscal analysis by the Department of Finance and the Joint Legislative Budget Committee, that a measure which would establish a new or expanded program costing more than \$1,000,000—*per in any* year without providing new revenues or eliminating existing programs to offset those costs, require that specified language be provided to the Attorney General which may be included in the circulating title and summary advising that the proposed initiative does not include sufficient funding to pay the cost of the measure.

Existing law directs the Legislative Analyst to prepare an unbiased fiscal analysis of a measure that is included in the ballot pamphlet stating whether the measure would result in increased or decreased costs to the state and an estimate of those costs or savings.

This bill also would require, if a fiscal analysis by the Legislative Analyst determines that a measure would establish a new or expanded program costing more than \$1,000,000 ~~per~~ *in any* year without providing new revenues or eliminating existing programs to offset those costs, that specified language be added to the ballot pamphlet advising that the proposed measure does not include sufficient funding to pay the cost of the measure.

This bill would also make technical changes to conform provisions of the Political Reform Act of 1974 and parallel provisions in the Elections Code relating to the ballot pamphlet.

The Political Reform Act of 1974, an initiative measure, generally provides that the Legislature may amend the act to further the act's purposes upon a $\frac{2}{3}$ vote of each house and compliance with specified procedural requirements.

The act also provides that, notwithstanding this requirement, the Legislature may amend specified provisions to add to the ballot pamphlet information regarding candidates or other information.

This bill, which would permit or require additional information to be included in the ballot pamphlet, would therefore require a majority vote.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 9005 of the Elections Code is amended
- 2 to read:
- 3 9005. (a) The Attorney General, in preparing a circulating title
- 4 and summary for a proposed initiative measure, shall, in boldface
- 5 print, include in the circulating title and summary either the
- 6 estimate of the amount of any increase or decrease in revenues or
- 7 costs to the state or local government, or an opinion as to whether
- 8 or not a substantial net change in state or local finances would
- 9 result if the proposed initiative is adopted.
- 10 (b) The estimate as required by this section shall be made jointly
- 11 by the Department of Finance and the Joint Legislative Budget
- 12 Committee, who shall deliver the estimate to the Attorney General
- 13 so that he or she may include the estimate in the circulating title
- 14 and summary prepared by him or her.
- 15 (c) The estimate shall be delivered to the Attorney General
- 16 within 25 working days from the date of receipt of the final version

1 of the proposed initiative measure from the Attorney General,
2 unless, in the opinion of both the Department of Finance and the
3 Joint Legislative Budget Committee, a reasonable estimate of the
4 net impact of the proposed initiative measure cannot be prepared
5 within the 25-day period. In the latter case, the Department of
6 Finance and the Joint Legislative Budget Committee shall, within
7 the 25-day period, give the Attorney General their opinion as to
8 whether or not a substantial net change in state or local finances
9 would result if the proposed initiative measure is adopted.

10 (d) A statement of fiscal impact prepared by the Legislative
11 Analyst pursuant to subdivision (b) of Section 12172 of the
12 Government Code may be used by the Department of Finance and
13 the Joint Legislative Budget Committee in the preparation of the
14 fiscal estimate or the opinion.

15 (e) If an initiative measure submitted for circulating title and
16 summary is determined in the joint analysis of the Joint Legislative
17 Budget Committee and Department of Finance to (1) establish a
18 new or expanded program, (2) cost more than one million dollars
19 (\$1,000,000) ~~per in any~~ year, excluding costs attributable to the
20 issuance, sale, or repayment of general obligation bonds, and (3)
21 not either provide new revenues or eliminate all or part of existing
22 programs sufficient to pay the cost of the new or expanded program
23 or service, a paragraph shall be provided to the Attorney General,
24 at the same time as the estimate provided pursuant to subdivision
25 (c), which may be included in the title and summary prepared by
26 the Attorney General pursuant to Section 9004, stating as follows:

27 “The Joint Legislative Budget Committee and Department of
28 Finance have determined that this measure does not include
29 sufficient funds to pay the cost of the new or expanded program
30 or service provided therein. Therefore, should the measure pass,
31 ~~other programs or services provided by the state would need to be~~
32 ~~reduced or eliminated, or new state revenues raised, in order for~~
33 ~~the measure to be implemented.”~~ *its costs would have to be paid*
34 *from one or more of the following:*

35 (1) *Reductions to existing state programs.*

36 (2) *Revenue increases.*

37 (3) *State reserves, if available.”*

38 SEC. 2. Section 9087 of the Elections Code is amended to read:

39 9087. (a) The Legislative Analyst shall prepare an impartial
40 analysis of the measure describing the measure and including a

1 fiscal analysis of the measure showing the amount of any increase
2 or decrease in revenue or cost to state or local government. If it is
3 estimated that a measure would result in increased cost to the state,
4 an analysis of the measure's estimated impact on the state shall be
5 provided, including an estimate of the percentage of the General
6 Fund that would be expended due to the measure, using visual aids
7 when appropriate. An estimate of increased cost to the state or
8 local governments shall be set out in boldface print in the ballot
9 pamphlet.

10 (b) The analysis shall be written in clear and concise terms, so
11 as to be easily understood by the average voter, and shall avoid
12 the use of technical terms wherever possible. The analysis may
13 contain background information, including the effect of the
14 measure on existing law and the effect of enacted legislation which
15 will become effective if the measure is adopted, and shall generally
16 set forth in an impartial manner the information the average voter
17 needs to adequately understand the measure. To the extent
18 practicable, the Legislative Analyst shall utilize a uniform method
19 in each analysis to describe the estimated increase or decrease in
20 revenue or cost of a measure, so that the average voter may draw
21 comparisons among the fiscal impacts of measures. The condensed
22 statement of the fiscal impact summary for the measure prepared
23 by the Attorney General to appear on the ballot shall be followed
24 immediately by the uniform estimate of increase or decrease in
25 revenue or cost of the measure prepared pursuant to this
26 subdivision.

27 (c) The Legislative Analyst may contract with professional
28 writers, educational specialists, or other persons for assistance in
29 writing an analysis that fulfills the requirements of this section,
30 including the requirement that the analysis be written so that it
31 will be easily understood by the average voter. The Legislative
32 Analyst may also request the assistance of a state department,
33 agency, or official in preparing his or her analysis.

34 (d) Prior to submitting the analysis to the Secretary of State, the
35 Legislative Analyst shall submit the analysis to a committee of
36 five persons, appointed by the Legislative Analyst, for the purpose
37 of reviewing the analysis to confirm its clarity and easy
38 comprehension to the average voter. The committee shall be drawn
39 from the public at large, and one member shall be a specialist in
40 education, one member shall be bilingual, and one member shall

be a professional writer. Members of the committee shall be reimbursed for reasonable and necessary expenses incurred in performing their duties. Within five days of the submission of the analysis to the committee, the committee shall make recommendations to the Legislative Analyst as it deems appropriate to guarantee that the analysis can be easily understood by the average voter. The Legislative Analyst shall consider the committee's recommendations, and he or she shall incorporate in the analysis those changes recommended by the committee that he or she deems to be appropriate. The Legislative Analyst is solely responsible for determining the content of the analysis required by this section.

(e) The title of the measure that appears on the ballot shall be amended to contain a summary of the Legislative Analyst's estimate of the net state and local government fiscal impact.

(f) If a measure qualifies for the ballot and the Legislative Analyst's analysis pursuant to this section determines that the measure would (1) establish a new or expanded program, (2) cost more than one million dollars (\$1,000,000)—*per in any* year, excluding costs attributable to the issuance, sale, or repayment of general obligation bonds, if implemented, and (3) does not either provide new revenues or eliminate all or part of existing programs sufficient to pay the cost of the new or expanded program or service, a paragraph shall be added to the summary statement established pursuant to Section 9085 of the ballot pamphlet prepared pursuant to Section 9081, stating as follows:

"This measure does not include sufficient funds to pay the cost of the new or expanded program or service provided therein. Therefore, should the measure pass, ~~other programs or services provided by the state would need to be reduced or eliminated, or new state revenues raised, in order for the measure to be implemented.~~" *its costs would have to be paid from one or more of the following:*

(1) *Reductions to existing state programs.*

(2) *Revenue increases.*

(3) *State reserves, if available."*

SEC. 3. Section 88003 of the Government Code is amended to read:

88003. (a) The Legislative Analyst shall prepare an impartial analysis of the measure describing the measure and including a

1 fiscal analysis of the measure showing the amount of any increase
2 or decrease in revenue or cost to state or local government. If it is
3 estimated that a measure would result in increased cost to the state,
4 an analysis of the measure's estimated impact on the state shall be
5 provided, including an estimate of the percentage of the General
6 Fund that would be expended due to the measure, using visual aids
7 when appropriate. An estimate of increased cost to the state or
8 local governments shall be set out in boldface print in the ballot
9 pamphlet.

10 (b) The analysis shall be written in clear and concise terms, so
11 as to be easily understood by the average voter, and shall avoid
12 the use of technical terms wherever possible. The analysis may
13 contain background information, including the effect of the
14 measure on existing law and the effect of enacted legislation which
15 will become effective if the measure is adopted, and shall generally
16 set forth in an impartial manner the information the average voter
17 needs to adequately understand the measure. To the extent
18 practicable, the Legislative Analyst shall utilize a uniform method
19 in each analysis to describe the estimated increase or decrease in
20 revenue or cost of a measure, so that the average voter may draw
21 comparisons among the fiscal impacts of measures. The condensed
22 statement of the fiscal impact summary for the measure prepared
23 by the Attorney General to appear on the ballot shall be followed
24 immediately by the uniform estimate of increase or decrease in
25 revenue or cost of the measure prepared pursuant to this
26 subdivision.

27 (c) The Legislative Analyst may contract with professional
28 writers, educational specialists, or other persons for assistance in
29 writing an analysis that fulfills the requirements of this section,
30 including the requirement that the analysis be written so that it
31 will be easily understood by the average voter. The Legislative
32 Analyst may also request the assistance of a state department,
33 agency, or official in preparing his or her analysis.

34 (d) Prior to submitting the analysis to the Secretary of State, the
35 Legislative Analyst shall submit the analysis to a committee of
36 five persons appointed by the Legislative Analyst for the purpose
37 of reviewing the analysis to confirm its clarity and easy
38 comprehension to the average voter. The committee shall be drawn
39 from the public at large, and one member shall be a specialist in
40 education, one member shall be bilingual, and one member shall

be a professional writer. Members of the committee shall be reimbursed for reasonable and necessary expenses incurred in performing their duties. Within five days of the submission of the analysis to the committee, the committee shall make recommendations to the Legislative Analyst as it deems appropriate to guarantee that the analysis can be easily understood by the average voter. The Legislative Analyst shall consider the committee's recommendations, and he or she shall incorporate in the analysis those changes recommended by the committee that he or she deems to be appropriate. The Legislative Analyst is solely responsible for determining the content of the analysis required by this section.

(e) The title of the measure that appears on the ballot shall be amended to contain a summary of the Legislative Analyst's estimate of the net state and local government fiscal impact.

(f) If a measure qualifies for the ballot and the Legislative Analyst's analysis pursuant to this section determines that the measure would (1) establish a new or expanded program, (2) cost more than one million dollars (\$1,000,000)—*per in any* year, excluding costs attributable to the issuance, sale, or repayment of general obligation bonds, if implemented, and (3) does not either provide new revenues or eliminate all or part of existing programs sufficient to pay the cost of the new or expanded program or service, a paragraph shall be added to the summary statement established pursuant to Section 88002.5 of the ballot pamphlet prepared pursuant to Section 88000, stating as follows:

"This measure does not include sufficient funds to pay the cost of the new or expanded program or service provided therein. Therefore, should the measure pass, ~~other programs or services provided by the state would need to be reduced or eliminated, or new state revenues raised, in order for the measure to be implemented.~~" *its costs would have to be paid from one or more of the following:*

(1) *Reductions to existing state programs.*

(2) *Revenue increases.*

(3) *State reserves, if available."*

SEC. 4. The Legislature finds and declares that this act permits or requires the inclusion of additional information on the ballot

- 1 pamphlet in accordance with Section 88007 of the Government
- 2 Code.

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